IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3210 OF 1991

Shri Vishnu Tukaram Habib

aged 53 years, Occu: Business

Residing at 77/2, Railway Lines

Solapur. .. Petitioner

vs

Shri Shivaji Apparao Satpute ..

age 40 years, Occu: Service,

Residing at 84/1,Railway Lines,

Solapur. .. Respondent

WITH WRIT PETITION NO. 3211 OF 1991

Shri Vishnu Tujaram Habib

age 53 years,Business,

Residing at 77/2, Railway Lines,

Solapur District Solapur. .. Petitioner

vs

Shri Parmeshwar Laxman Khajindar ..

age 70 years, Occu: Mill Worker

Residing at 48/A, Railway Lines,

Solapur.

WITH WRIT PETITION NO. 3213 OF 1991

Shri Vishnu Tukaram Habib

Aged 53 years, Occu: Business,

Residing at 77/2, Railway Lines,

Solapur District Solapur .. Petitioner

vs

1. (Sou) Laxmibai Dagdoba Dhavne

42 years, Occu: Household work

2. Shri Dagdu Govind Dhavne, age 45

years, Occu:Business

Both residing at 84/A, Railway Lines,

Solapur, Dist.Solapur ... Respondent

WITH WRIT PETITION NO. 3214 OF 1991

Shri Vishnu Tukaram Habib

aged about 53 years, Occu: Business

residing at 77/2, Railway Lines,

Solapur, District Solapur. .. Petitioner

v/s

1. Shri Prabhakar Siddhappa Kore,

since deceased by his heirs

and legal representatives

A. Smt Kantabai Prabhakar Kore,

age 38 yrs, Occu: Household work

residing at 84-A, Railway

Lines, Solapur District Solapur.

B. Shri Mallikarjun Prabhakar More

aged about 26 years, occu: Service,

residing as above.

C. Shri Sunil Prabhakar Kore,

aged about 20 years, Occu: Education

residing as above.

.. Respondents

WRIT PETITION NO. 3215 OF 1991

Shri Vishnu Tukaram Habib

age 53 years, Occu: Business

Residing at 77/2, Railway Lines,

Solapur. .. Petitioner

vs

Shri Narsing Laxman Rajput

Pardeshi, zage 52 years, Occu:

Mill Labour, Residing at 84-A,

Railway Lines, Solapur.

... Respondent

WITH WRIT PETITION NO. 3216 of 1991

Shri Vishnu Tukaram Habib

aged 53 years, Occu: Business

Residing at 77/2, Railway Lines,

Solapur .. Petitioner

vs

Shri Amoghsindha Ozapa Patil

age 45 years, Occu: Business

Residing at 84-A, Railway Lines,

Solapur .. Respondent

WITH WRIT PETITION NO. 3186 OF 1991

Shri Vishnu Tukaram Habib

aged 53 years, Occu: Business

Residing at 77/2, Railway Lines,

Solapur. .. Petitioner

vs

Shri Rajaram Gopinath Kshirsagar

aged 55 years, Occu: Nil

Residing at 84/A, Railway Lines,

Solapur. .. Respondent

WITH WRIT PETITION NO. 3187 OF 1991

Shri Vishnu Tukaram Habib

aged 53 years, Occu: Business

Residing at 77/2, Railway Lines,

Solapur District Solapur .. Petitioner

vs

Shri Atmaram Dattatraya Khare

age 62 years, Occu: Nil

Residing at 84/A, Railway Lines,

Solapur District Solapur .. Respondent

..

Shri V.B.Naik for Petitioner

Shri A.A.Kumbhakoni for Respondent

CORAM : R.M.S.KHANDEPARKAR, J

DATE: 10TH SEPTEMBER, 2004

ORAL JUDGMENT

1. Since common questions of law and facts arise in all these petitions, they were heard together and are being disposed of by this common order.

2. Heard learned Advocate for the parties. Perused the records. In all these petitions, the petitioners challenge the order passed passed by the appellate Court setting aside the decree of the trial Court. The trial Court had allowed the applications filed by the petitioners under section 13 (i) (hh) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter referred to as the said Act) However, the said order was set aside by the appellate Court primarily on the ground of non compliance of the provisions of section 13 (3) (a) and 13 (3) (b) of the said Act. The petitioners challenge the impugned orders on various grounds while the same are sought to be justified equally on various grounds by the respective Advocates for the parties. However, in view of what transpired in the course of arguments, it is not necessary to consider all those points and/or to deal with the rival contentions in the matter. Suffice to note that in view of the various changes brought about in the provisions of law in relation to construction

activities as necessity of compliance thereof being pre-requisite for undertaking the construction of a new building, discussion on the rival contentions sought to be raised in the matter would be of mere academic interest and considering the same, learned Advocate for the respondents has fairly conceded that the decision regarding grant of relief even under section 13 (1) (hh) of the Act will have to be taken bearing in mind the changes brought about in the provisions of law relating to the construction activities and therefore the only option left for the parties is to get the impugned orders set aside by consent and to have the matter remanded to the lower Court to decide the claim of the petitioners afresh in accordance with the provisions of law in force and after affording opportunity to both the parties to amend the pleadings and to lead the evidence, if they so desire.

3. Hence, by consent the impugned orders that is to say the order passed by the lower appellate Court as well as by the trial Court in all the petitions are hereby set aside and matters are remanded to the lower Court to decide the suits filed by the petitioners under section 13 (1) (hh) of the said Act afresh and in accordance with the provisions of law in force. Needless to say that both the parties

would be entitled to amend their pleadings and to lead further evidence if they so desire. Considering the fact that the original plaints in the suits were filed in the year 1983 certainly the Court below is expected to dispose of the matters as expeditiously as possible and all the parties are expected to render necessary cooperation in that regard.

4. Registry to forward the Records and proceedings to the trial Court forthwith.

5. Rule made absolute in above terms with no order as to costs.

6. Certified copy expedited.

7. Authenticated copy allowed.

(R.M.S.KHANDEPARKAR, J)